

Application No.: 10/790,090
Art Unit: 3765

Attorney NO. 19240.04
Confirmation No. 1175

REMARKS

By the present amendment, Applicant has amended Claims 1, 7, 8 and 10. Claims 1-43 remain pending in the present application. Claim 1 is an independent claim.

In the recent Office Action the Examiner rejected Claims 1-43 under the judicially created doctrine of double patenting over Claims 1-20 of commonly owned U.S. Patent No. 6,698,026. The Examiner asserts that the subject matter claimed in the present application is fully disclosed and covered by the instant patent.

Applicant respectfully submit that claims of the present application and those of U.S. Patent No. 6,698,026 differ in scope and are patentably distinct from each other. Independent Claim 1 of instant application recite that the inner layer is "selectively worn independent of said outer layer" and that the safety harness is "disposed on said interior surface of said inner layer." No such corresponding limitations appear in the patented claims. Moreover, the recitation of "a safety loop" fastened to the free end of the safety strap in Claim 1 does not appear in the patent. These claimed limitations provide a safety garment with additional appendages that can be used for backpacks, fanny packs and various other attachments. Applicant further notes that the structural features shown in Figs. 9E-9G and Figs. 14-24B of the present application represent new embodiments of Applicant's invention which are not found in the patent. Therefore, claims to these new embodiments could not have been presented during prosecution of the application which matured into a patent without raising the question of new matter.

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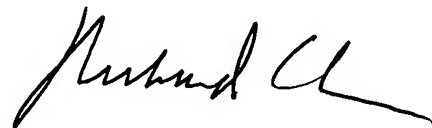
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Notwithstanding the above, submitted with this amendment is a terminal disclaimer signed by the attorney of record in compliance with 37 CFR 1.321(c). The terminal disclaimer should render the rejection of Claims 1-43 moot. Applicant wishes to go forward with the present application because of certain claimed innovations not present in the '026 patent.

The specification has been amended to provide the patented status of Applicant's prior application. The Abstract of the Disclosure has been revised in the interest of clarity, and Claims 1, 7, 8 and 10 have been amended to correct minor grammatical mistakes and/or to more particularly define the subject matter in question. Care has been exercised to ensure that no new matter be introduced by the present amendments.

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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RCL:DHT/gwh
Attachments